

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FELIX CASTRO #42133-018
MEDICAL CENTER FEDERAL PRISON SPRINGFIELD
P.O. BOX 4000
SPRINGFIELD, MO 65801

Plaintiff,

v.

Case: 1:19-cv-00174 (I-DECK)
Assigned To : Unassigned
Assign. Date : 1/22/2019
Description: FOIA/Privacy

EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS
FREEDOM OF INFORMATION ACT & PRIVACY STAFF
175 N. STREET, N.W.
WASHINGTON, D.C. 20530

Defendant,

Complaint for declaratory and injunctive relief.

- 1) This is an action under the Freedom of Information Act (FOIA) 5 U.S.C. § 552 as amended and the Privacy Act (PA) 5 U.S.C. 552a, to order the production of agency records previously requested by Plaintiff pursuant to the above referenced Acts and which, request have either been ignored or denied by the Defendant agency.
- 2) This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 5 U.S.C. § 552a(g)(1)(B); (g)(1)(D); (g)(3)(A); (g)(3)(B); (g)(4)(A) and (g)(4)(B).
- 3) Plaintiff Felix Castro is a Federal prisoner in the Medical Center Federal Prison Springfield. He is the requester of the withheld records.
- 4) Defendant, Executive Office for United States Attorneys is an agency of the United States, and it has possession of, and control over, the records that Plaintiff seeks.
- 5) The following is a list of the requests made by the Plaintiff to the Defendant agency and disposition if any:

(1)



On 10/24/2018 Plaintiff mailed a FOIA request to the Defendant agency. On 11/19/2018 a response was received in the form of the standard "10 day letter" assigned a request no: EOUSA-2019-000584. No responsive records were furnished, and Plaintiff submitted an appeal on 11/15/2018. Plaintiff then filed an amended appeal on 11/25/2018. No responsive records resulted from that appeal. On 11/26/2018 Plaintiff received a letter of receipt assigned no: DOJ-AP-2019-001300 from the DOJ Office of Information & Privacy, but no responsive records were furnished. A true copy of the above request, appeal and letters are attached as EXHIBIT A.

6) Over Ten (10) working days have passed since the Executive Office for United States Attorneys received Plaintiff's FOIA/Privacy Act request and he has not received the responsive records and documents as indicated in paragraph 5, EXHIBIT A. Over Twenty (20) working days have passed since the Office of Information & Privacy received Plaintiff's appeal and he has not received the responsive records and documents as indicated above. The agency has not claimed any exemptions for non-disclosure that are identifiable under the FOIA or the Privacy Act.

7) Plaintiff has a statutory right to the records that he seeks, and there is no legal basis for the Defendant's refusal to disclose them to him. Plaintiff has made a showing that the Executive Office for United States Attorneys has improperly withheld agency records.

8) Therefore, Plaintiff prays that this Court:

(1) Declare the Defendant's refusal to disclose the records requested by Plaintiff is unlawful;

(2) Issue an injunction to prevent the Executive Office for

United States Attorneys from relying on their invalid practice of either (a) not responding at all to FOIA/PA request or (b) responding with a standard for "10 day letter", and then not taking any action honoring or denying the request.

(3) Make a written finding that the circumstances surrounding the withholding raise question whether there has been arbitrary or capricious agency action and make a referral of the matter to the Merit Systems Protection Board for investigation, pursuant to subsection (a)(4)(F);

(4) Award Plaintiff his costs and reasonable attorney's fees in this action:

(5) Expedite this lawsuit pursuant to 28 U.S.C. § 1657; and

(6) Grant such other and further relief as the Court may deem just and proper.

Signed this January day of 13 20 19.

Felix Castro #42133-018
Medical Center Federal Prison Springfield
P.O.Box 4000
Springfield, MO 65801

I decalre under prnalty of purjury that the foregoing is true and correct.

Felix Castro Felix Castro

This document is hereby filed on the 13 th day of January, 20 19 pursuant to the holding in Houston v. Lack, 487 US266 (1988), by placing it in the rpison mail receptacle designated for outgoing legal mail.

EXHIBIT A

EXHIBIT A

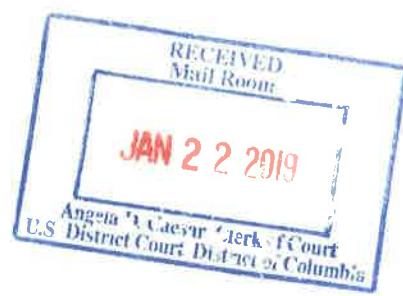


EXHIBIT A

FREEDOM OF INFORMATION/PRIVACY ACT REQUEST

TO: Freedom of Information Act
U.S. Attorney
Middle District Of Florida
Tampa Division

FROM: Felix Castro #42133-018
MCFP-Springfield
P.O.Box 4000
Springfield, MO 65801

PURSUANT TO TITLE 5, UNITED STATES CODE, SECTION 552, 552a, I THE UNDERSIGNED, IDENTIFIED AS ABOVE, RESPECTFULLY REQUESTS THE ACCESS TO, THE DISCLOSURE OF, THE RELEASE OF, AND THE OPPORTUNITY TO CORRECT AND AMEND, THE FOLLOWING RECORDS MAINTAINED BY YOUR AGENCY:

I am requesting all documents request by the U.S. Attorney from the Chicago Police Department and Illinois State trooper Office. Also the entire prior criminal history, prior convictions, police reports, Indictments, Judgements, and fingerprint cards Pertaining to Felix Castro Case No 04-CR-327-T-24MAP.

I AM ALSO REQUESTING A COPY OF THE APPLICATION RULES & REGULATIONS FOR YOUR AGENCY AS PROVIDED FOR BY THE FOI/PA, AS AMENDED BY PUBLIC LAW 93-502, 88 STAT. 1561

IF FOR ANY REASON, ANY OF THE ABOVE-REQUESTED RECORDS ARE DEEMED TO BE NON-DISCLOSABLE, OR NON-RELEASABLE, PLEASE SPECIFY THE REGULATORY & STATUTORY EXEMPTION RELIED UPON, AND STATE WHETHER THE ENTIRE DOCUMENT OR ONLY A PORTION THEREOF, IS DEEMED NON-DISCLOSABLE, AND FURNISH THE NAME AND TITLE OF THE PERSON MAKING THE DECISION.

REQUESTER IS AN INDIGENT INMATE AT Springfield AND REQUESTS THAT ANY SEARCH AND/OR DUPLICATION FEES BE WAIVED, OR IN THE ALTERNATIVE, THAT ACCESS BE PROVIDED BY ALLOWING REQUESTER TO VIEW AND TAKE NOTES OF THE RECORDS RATHER THAN BE PROVIDED WITH COPIES.

THE FOI/PA PROVIDES FOR A REPLY TO THIS REQUEST IN TEN (10) WORKING DAYS. REQUESTER HEREBY INVOKES THIS PROVISION FOR A RESPONSE TO THIS REQUEST WITHIN TEN (10) WORKING DAYS. 552(a)(6)(A)(i).

Respectfully Submitted,

Felix Castro

(Requester)

Dated this 20 day of October 20 18

PRIVACY ACT STATEMENT: In accordance with 28 CFR Section 16.41, personal data to identify the individual submitting request by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required.

FULL NAME OF REQUESTER: Felix Castro

CURRENT ADDRESS: Medical Center Federal Prison, P.O.Box 4000, Springfield, MO 65801

DATE OF BIRTH: November 27, 1972

PLACE OF BIRTH: Chicago, Illinois

EMPLOYEE I.D. NUMBER: 42133-018

I certify that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five (5) years or both, and that requesting of obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a (i) (3), by a fine of not more than \$5,000.

Dated this 20 day of October

Signature: 20
Felix Castro



Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Failure to furnish this information will result in no action being taken on the request. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to Director, Facilities and Administrative Services Staff, Justice Management Division, U.S. Department of Justice, Washington, DC 20530 and the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ Felix Castro

Citizenship Status ² U.S. Citizen

Social Security Number ³ 350-74-9281

Current Address Medical Center federal Prison, P.O.Box 4000, Springfield, MO 65801

Date of Birth November 27, 1972

Place of Birth Chicago, Illinois

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ Felix Castro

Date 10/20/18

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

Felix Castro

Print or Type Name

¹ Name of individual who is the subject of the record sought.

² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.



To: Office of Information & Privacy
U.S. Department of Justice
Suite-570 Falg Building
Washington, D.C. 20530

Re: FOIA/Privacy Act Appeal, Denial of access Pursuant to 5 U.S.C. 552(a)(6), 5 U.S.C. a.

Dear: Sir/Madam

This ia an appeal from the denial of records by the U.S. Attorney's office as noted in the attached request and the following reasons and facts.

1. On 10/24/2018 I mailed a request for records to the Executive Office for United States Attorney's Department of Justice. A copy of that request is attached to this appeal. I have not received any responsive records, nor have I received a determination on my request.
2. The U.S. Attorney's office has failed to comply with the provisions of the Freedom of Information Act/Privacy Act regarding the release of records.
3. The U.S. attorney's Office has exceeded the statutory time limits for providing the records requested.

Therefore, and for the above mentioned reasons and facts, it is evident that the U.S. Attorney's Office has denied me access to the records and documents to which I am entitled to under the statue. This appeal is being submitted in a good faith attempt to obtain compliance by the U.S. Attorney's Office to the statutory provisions of the FOIA/PA regarding disclosure and to avoid the costs of litigation.

Please instruct the U.S. Attorney's Office to furnish the records as requested. I wloud also appreciate your compliance with Section 552(a)(6)(A)(i) regarding the response time to this appeal

Respectfully submitted,
Felix Castro
Felix Castro #42133-018
MCFP-Springfield
P.O. Box 4000
Springfield, MO 65801





U.S. Department of Justice

*Executive Office for United States Attorneys
Freedom of Information Act & Privacy Act Staff*

*175 N Street, NW
5th Floor, FOIA Suite
Washington, DC 20530*

*(202) 252-6020
(202) 252-6048 Fax*

Felix Castro
#42133-018
POB 4000
Springfield MO 65801
EOUSA-2019-000584
11/08/2018

Subject: Self/Specific Documents

Dear Mr. Castro,

This Your request seeks records from one or more field offices, and may involve many voluminous records and/or requires consultation with another agency/component with a substantial interest in the subject-matter and therefore falls within “unusual circumstances” as set forth in the state. See 5 U.S.C.S § 552(a)(6)(B)(i)-(iii). Accordingly, we are extending the time limit to respond to our request for ten additional days. See 5 U.S.C. § 552(a)(6)(B)(i). In addition, this Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Simple requests usually receive a response in approximately 30 business days, whereas complex requests necessarily take longer. At this time, your request has been assigned to the complex track.¹

Under FOIA and Department of Justice regulations you may be required to pay certain costs associated with processing your request, including, searching for, reviewing, and duplicating requested records. Consequently, you may potentially incur those costs, unless you have requested and been granted a waiver or reduction in fees. In most instances, the first 100 pages to duplicate and the first two hours to search for records responsive to your request, will be provided to you free of charge. If after making those allowances, we determine that the cost to process your request will amount to more than \$25.00, we will notify you in writing at a later date.² Requests that are specific, concrete and of limited scope (in time and/or subject matter) generally enable us to respond to you more quickly and possibly assess less fees. To avoid delay and reduce any potential fees, we respectfully request that you modify and narrow the scope of your request (See attachment).

¹ A search for information in the districts of ILN and GAM are already underway pursuant to a previous FOIA request that was received from you. The number assigned to that request is EOUSA 2017-002977. Please refer to EOUSA when seeking information related to ILN and GAM districts.

² Search and review fees by professional personnel are charged at \$40 per hour and duplication fees are assessed at five cents per page



You may also contact our FOIA Public Liaison at the telephone number listed above for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation service they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 96012 Adelphi Road-OGIS, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Kevin Krebs
Assistant Director

Attachment(s)

Form No. 001 - 8/16

To: Office of Information & Privacy
U.S. Department of Justice
Suite-570 Flag Building
Washington, D.C. 20530

11-25-2018

Re: FOIA/Privacy Act Appeal, Denial of access pursuant to 5 U.S.C. 552(a)(6,5 U.S.C. a

Dear: sir/Madam

This is an amendment to my original appeal from the denial of records by the U.S. Attorney's office as noted in the following facts.

On 11-15-2018 I submitted an appeal, because I never received a response from the FOIA request I submitted. On 11-19-2018 I received a response stating they are extending an additional ten days to respond to my request.

The U.S. Attorney's office has failed to comply with the provisions of the Freedom of Information & Privacy Act regarding the release of records.

The U.S. Attorney's office has exceeded the statutory time limits for providing the records requested.

Therefore, and for the above mentioned reasons and facts, it is evident that the U.S. Attorney's office has denied me access to the records and documents to which I am entitled to under the statute. This amended appeal is being submitted in a good faith attempt to obtain compliance by the U.S. Attorney's office to the statutory provisions of the FOIA/PA regarding disclosure and to avoid the costs of litigation.

Please instruct the U.S. Attorney's office to furnish the records as requested. I would appreciate your compliance with Section 552(a)(6)(A)(i) regarding the response time to this amended appeal.

Respectfully submitted,

Felix Castro #42133-018
MCFP-Springfield
Springfield, MO 65801



12/06/2018

Mr. Felix Castro
Register No. 42133-018
MCFP Springfield
P.O. Box 4000
Springfield, MO 65801

Dear Mr. Castro,

This is to advise you that your administrative appeal from the failure of the Executive Office for United States Attorneys to respond to your request was received by the Office of Information Policy (OIP) of the U.S. Department of Justice on 11/26/2018.

OIP has the responsibility of adjudicating such appeals. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number DOJ-AP-2019-001300. Please mention this number in any future correspondence to this Office regarding this matter. Please note that if you provide an e-mail address or another electronic means of communication with your request or appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at (202) 514-3642. If you have submitted your appeal through FOIAonline, you may also obtain an update on the status of your appeal by logging into your account.

Sincerely,

**PRISCILLA
JONES**
Priscilla Jones

Digitally signed by
PRISCILLA JONES
Date: 2018.12.06 16:54:49
-05'00'

Supervisory Administrative Specialist

